includes supplement

Michael R. Finnegan

Michael R. Finnegan
Regional Business Manager

BRC 03-01
September 29, 2003

Bureau of Reclamation, Mid-Pacific Region

Business Practices Guidelines For Central Valley Project Improvement Act Program Accounting and Cost Recovery

Purpose. The purpose of these Business Practices Guidelines (Guidelines) is to memorialize roles, responsibilities, and standard procedures associated with accounting and cost recovery for Central Valley Project Improvement Act Program (Program) activities in compliance with applicable laws, regulations, policies, and standards, and consistent with the fundamental interests of Program stakeholders including CVP water and power contractors (contractors), the U.S. Bureau of Reclamation (Reclamation), the U.S. Fish and Wildlife Service (FWS), and other participating Federal and State of California (State) agencies.

Scope. The Guidelines apply to all authorized Program activities funded by Reclamation with Restoration Fund or Water and Related Resources (WRR) appropriations.

Expiration. The Guidelines supplement but do not replace related Department of the Interior and Reclamation-wide policies or directives and standards. The Guidelines supersede all previous Region administrative guidance on this subject. These Guidelines will remain in effect until formally revised or rescinded.

References.

1. Central Valley Project Improvement Act (P.L. 102-575, Title 34), dated October 30, 1992.
2. Draft "Revised Interim Guidelines: Restoration Fund Payments and Charges," dated October 1993.
3. Mid-Pacific Region Business Practices Guidelines for Determining Reimbursability of Program Activities, dated February 14, 2002.
4. OMB Circular A-11.
5. The Sharing of Cost Agreement Mitigation, Projects, and Improvements (SCAMPI), dated July 6, 1994, as amended.
6. CVP Irrigation Ratesetting Policy, 1988.
7. Interim CVP Municipal and Industrial (M&I) Ratesetting Policy, December, 1993.
8. Contributed Funds Act of 1923.

Terms. Key terms used in the Guidelines are defined in the Glossary.

Responsibilities. In summary:

1. The Regional Business Manager (MP-3000) is responsible for administering and maintaining these Guidelines.

2. Business Resources Center (BRC) Budget Services (MP-3200) will (a) ensure that Regional call letters include instructions to program managers for documenting reimbursability and accounting treatment of proposed work activities and (b) provide advice and assistance to program managers in formulating Program budgets.

3. BRC Ratesetting Services (MP-3400) will (a) determine reimbursability of individual Program activities and (b) perform annual allocation of Program costs as appropriate.

4. BRC Accounting Services (MP-3600) will (a) determine accounting treatment of each individual Program activity and (b) maintain accounting records for the Program.

5. CVPIA Program managers are responsible for consulting with appropriate staff to identify the reimbursability and accounting treatment of proposed work activities.

Background.

• Restoration Fund Revenues. Section 3407(c) of the Central Valley Project Improvement Act (the Act) requires the Secretary to assess and collect annual mitigation and restoration payments, in addition to other specific charges, in order to recover a portion or all of the costs of fish, wildlife, and habitat restoration programs, and projects covered under the Act. Payments are indexed to the1992 price level and assessed on the basis of a 3-year rolling average.

• Habitat Restoration, Improvement, and Acquisition Activities. Section 3407(a) stipulates that not less than 67% of the funds deposited in the Restoration Fund are authorized to be appropriated to the Secretary to carry out the habitat restoration, improvement, and acquisition (from willing sellers) provisions of the Act. Costs associated with most of these activities are designated by the Act or other statutes or policies as reimbursable by project beneficiaries (contractors).

• Projects and Facilities. Section 3407(a) further stipulates that not more than 33% of the funds made available to the Restoration Fund under the Act are authorized to be appropriated to the Secretary to carry out the provisions of paragraphs 3406(b)(4)-(6), (10)-(18), and (20)-(22). The majority of these projects and programs involve cost sharing among the Federal Government, State, and contractors according to percentages prescribed by the Act. Contractors' share is fully reimbursable.

• Program funding. On an annual basis, Reclamation develops outyear budget requests to support the Program plan. In addition to Restoration Fund appropriations, Reclamation also uses WRR appropriations to support Program activities. Reclamation also receives funding from the State according to various cost-share requirements specified in the Act. Historically, decisions on whether to fund a particular activity either with Restoration Fund appropriations or WRR appropriations were based upon program timetables and availability of appropriations. Decisions on the use of Restoration Fund or WRR appropriations are not based upon cost-share percentages or reimbursability of the activity.

• Accounting treatment. In accounting terms, costs associated with most habitat restoration, improvement, and acquisition activities ("67%" activities) are treated as annual expenses to be recovered in the year they are incurred. Exceptions include the land retirement program authorized under paragraph 3408(h), and construction costs for refuge water conveyance facilities authorized under paragraph 3407(d)(5). Costs associated with the "33%" activities are either capitalized or expensed in accordance with Federal accounting standards. Capital costs are recovered over the authorized repayment period of the project.

• Cost recovery. By informal agreement with contractors, Reclamation deferred action to recover any Program costs for an unspecified period of time pending formulation of key financial and business practices. The most important of these are (a) whether Restoration Fund revenues are a payment against contractors' reimbursable obligations or simply a "tax" or surcharge that, once expended, is subject to cost recovery procedures; and (b) interpretation of the offset provision of Section 3407(b). Pending resolution of these issues, Program costs accumulated in the accounting records and were neither allocated nor recovered as required by Reclamation law.

• Interim Guidelines. Shortly after enactment of CVPIA, Reclamation initiated action to develop interim guidelines for the Restoration Fund pending completion of formal rules and regulations. The draft "Revised Interim Guidelines: Restoration Fund Payments and Charges" were presented for public review and comment during 1993, but were never finalized and formally implemented.

• Rules and regulations. Reclamation initiated an extensive effort during the period 1997-1999 to develop final rules and regulations for the Act in conformance with the Administrative Procedures Act (APA). A significant number of these rules and regulations involves Restoration Fund management. Draft rules and regulations for Restoration Fund management were completed. However, by informal agreement with project stakeholders, Reclamation suspended the rules and regulations process indefinitely.

• Garamendi process. The Garamendi process was a comprehensive effort to develop administrative solutions to 12 different Program issues. The process involved extensive public outreach and collaboration between Reclamation and individual stakeholder groups. Proposed solutions for each Program issue were presented to stakeholders in 1996. However, stakeholders were unable to achieve consensus on most issues and the process was eventually concluded.

• Interim management. In the absence of rules and regulations, or comprehensive Region guidelines, Reclamation has basically implemented financial provisions of CVPIA issue-by-issue in consultation with the Department of the Interior, Office of the Commissioner, or Office of the Solicitor. Several of the resulting interpretations have been "codified" in the form of new or revised water service contracts. This approach has been sufficient enough to allow work to progress on the Program. However, cost recovery and accounting for the Program could not be completed without a clear determination on at least two major financial issues (payment vs. tax and the offset provision).

• Internal analysis. During the period FY 2000-2001, the Business Resources Center initiated an internal analysis to address the issue of accumulated Program costs. The primary focus of the analysis was the offset provision, although there was considerable discussion of other business practices affecting Restoration Fund management including the payment issue. Based upon the BRC analysis, the Regional Business Manager presented a series of briefings to Region management and recommended that Reclamation initiate a collaborative effort with contractor representatives to develop a consensus proposal to address the issue of accumulated Program costs and facilitate Program management in the future. The Regional Director concurred with the recommendation and tasked the Regional Business Manager with completing the action.

• Program accounting. The tasking from the Regional Director was formalized in the enclosed Tasking Statement (enclosure 1). Participants included representatives of CVP water and power contractors, FWS and Reclamation program and finance organizations. Reclamation coordinated a series of six comprehensive workshops and meetings between November 2001 and December 2002. The consensus framework for addressing Program accounting was approved by the Regional Director on January 17, 2003. The approved framework serves as the basis for these Guidelines.

Guidelines. The following Guidelines will apply to Program accounting and cost recovery. The Guidelines will be applied prospectively and for purposes of reconciling accumulated balances. Guidelines 1-7 represent Reclamation's historical interpretation of the Act and related policies, practices, and procedures. Guidelines 8-13 are based upon the consensus proposal developed in conjunction with project stakeholders.

1. Restoration Fund collections. Reclamation must comply with collection requirements prescribed by statute as follows:

a. CVPIA Section 3404(c)(3): Pre-renewal penalty ("Hammer clause").
b. CVPIA Section 3405(a)(1)(C): Tiered water rates.
c. CVPIA Section 3405(f): Water transfer rates.
d. CVPIA Section 3406(c)(1): Friant surcharges.
e. CVPIA Section 3407(c)(2): Additional charges imposed by the Secretary to equal $50 million for all revenues on a 3-year rolling average.
f. CVPIA Section 3407(d)(2)(A): Payments necessary to collect up to $30 million on a 3-year rolling average. Provides that payments not exceed $6.00 a/f for irrigation and $12.00 a/f for M&I (indexed to 1992 price levels).
g. CVPIA Section 3407(d)(2)(A): M&I surcharge.
h. CVPIA Section 3407(d)(1)(A): Mitigation and restoration payments made by contractors, taking into account all funds collected under CVPIA shall, to the greatest degree practicable, be assessed in the same degree proportional over a 10-year period as water and power users' respective allocations for repayment of the project.
i. Annual appropriations acts requiring Reclamation to collect the maximum provided by law.

2. Use of Restoration Fund appropriations. Reclamation is authorized to obligate and expend Restoration Fund appropriations for any or all purposes of the Act subject to the 67%/33% split and other requirements.

3. Use of WRR appropriations. Reclamation is authorized to obligate and expend WRR appropriations for any or all authorized purposes. The specific authority for using WRR appropriations for Program activities is Section 3410, which authorizes appropriations as necessary to carry out provisions of the title. As with many Reclamation authorizations, Section 3410 is silent as to source of the appropriations.

4. Use of the State of California cost-share funds. CVPIA requires the State to share in the cost of certain Projects and Facilities. The basic framework for joint Federal/State cost sharing is memorialized in SCAMPI, dated July 6, 1994, as amended.

a. Trust Funds. All State funds received under the SCAMPI are deposited in a Trust Fund account established and maintained by Reclamation pursuant to the Contributed Funds Act of 1923.

b. Application of State funds. The SCAMPI authorizes either party (Federal or State) to fund all, none, or any percentage of the cost of an individual CVPIA activity, whether it is a cost-share activity or otherwise, so long as the total amount expended by each party equals that party's overall cost allocation under Section 3406 of the Act. This provides maximum flexibility to maintain work progress on Program activities.

c. Accounts maintenance. In conformance with the SCAMPI, Reclamation conducts periodic "true-ups" to reflect the current status of State and Federal cost-share obligations. State payments have historically lagged behind actual work progress on CVPIA cost-share activities. For the most part, this is attributable to different appropriations cycles and the time involved with billing and collecting. Reclamation's practice has been to fund the State share on the assumption that the State will eventually remit the balance owed. This dynamic has no impact on contractors. There is no financial obligation by contractors beyond their statutory share(s).

5. Determinations of reimbursability. Reclamation is required by statute to recover the reimbursable costs of water resource projects. Reclamation has no authority to recover costs associated with non-project activities or nonreimbursable project activities. The process used by Reclamation for determining reimbursability of any particular activity is contained in "Mid-Pacific Region Business Practices Guidelines, Determinations of Reimbursability, February 14, 2002." Consistent with these procedures, the fund source for any particular Program activity (Restoration Fund or WRR appropriations) is immaterial for purposes of determining reimbursability.

6. Accounting treatment. All Reclamation accounting must conform with Federal Accounting Standards Advisory Board (FASAB) standards and generally accepted accounting principles (GAAP). In particular, FASAB standards, GAAP, and related Federal regulations require that all costs incurred by the United States be either capitalized or expensed according to specific accounting criteria. The accounting treatment is significant to contractors since reimbursable capital costs are recovered over the useful life of the asset and reimbursable expenses are recovered in the year they are incurred.

7. Allocation. As required by the Act, Restoration Funds are appropriated over time on a 67%/33% basis between (a) Habitat Restoration, Improvement, and Acquisition activities and (b) Projects and Facilities. For purposes of the annual cost allocation, the majority of all

Program activities are classified as fish and wildlife mitigation. Costs for mitigation activities are normally reimbursable. However, the Act specifically identifies the costs or a portion of the costs for certain Program activities as nonreimbursable.

8. Nature of Restoration Fund Revenues. To the extent Restoration Fund revenues are expended to pay the costs of reimbursable Program activities (i.e., that portion of a Program activity determined to be reimbursable), the repayment obligation is considered satisfied and no further cost recovery will be initiated. Where Restoration Fund revenues are used to pay the costs of nonreimbursable Program activities, contractors will receive either an offset or credit (as defined in these Guidelines) toward the repayment of costs for reimbursable Program activities funded by WRR appropriations. Reconciliation of accounts is described in paragraph 12 below.

9. Restoration Fund Offsets. There are two references to offsets in the Act:

a. Section 3407(b). The offset language in Section 3407(b) will apply to cost-share Projects and Facilities authorized under paragraphs 3406(b)(4)-(6), (10)-(18), and (20)-(22)[1] of the Act (the "33%" Projects and Facilities). Where Reclamation has used Restoration Funds to pay for the Federal share of cost-share Projects and Facilities, the amount expended will be applied on a dollar-for-dollar basis as an offset to Contractors' net WRR obligation for all "33%" Projects and Facilities.[2] Offset amounts are applied first to annual expenses then to capital costs.

b. Section 3406(b) (last paragraph in Section). The offset language in Section 3406(b) means that the costs of implementing Section 3406(b) measures that are determined to be enhancement actions will be applied on a dollar-for-dollar basis as an offset to reimbursable costs associated with implementation of subsection 3406(b).[3]

---

[1] Section 3406(b)(22) is not a cost-share project. However, since costs for this project are reimbursable, no offsets ever accrued. The project was terminated in 2002 in accordance with the Act.

[2] Section 3407(b) specifically limits the application of offsets to cost-share obligations. Accordingly, surplus offsets may not be applied to net WRR obligations for Habitat Restoration, Improvement, and Acquisition ("67%" activities).

[3] As prescribed in the Act, application of this provision is subject to a formal determination by the Secretary and the State of California that long-term natural fishery productivity in all CVP-controlled rivers and streams resulting from implementation of [Section 3406(b) actions] exceeds that which existed in the absence of CVP.

The term "offsetting collections" in Section 3407(a) does not apply to any offset in contractor obligations. Offsetting collections is a budget term as defined by OMB Circular A-11.

10. Restoration Fund Credits. Where Restoration Funds are used to pay the costs of nonreimbursable Habitat Restoration, Improvement, and Acquisition activities ("67%" activities), the amount paid will be credited on a dollar-for-dollar basis to Contractors' net WRR obligation for that same category of activities ("67%" activities). Any surplus credits may then be applied to reimbursable obligations associated with "33%" Projects and Facilities that may still remain after application of offsets as described in paragraph 9a above. This effectively applies credits first to Operations and Maintenance (O&M) then expense.

11. Trust Fund Adjustment. To the maximum extent feasible, Trust Funds expenditures will be limited to cost-share Projects and Facilities. For reconciliation purposes, all Trust Fund expenditures will be credited toward the State share of CVPIA cost-share facilities. This includes any Trust Funds that—by exception—may have been used to pay for Habitat Restoration, Improvement, and Acquisitions activities. In those cases, Trust Fund expenditures will be treated as WRR obligations subject to the application of credits.

12. Annual reconciliation of accounts.

a. General, Reclamation will reconcile all Program accounts annually at the end of each fiscal year. The reconciliation process as described in paragraph 12b below, effectively applies credits first to O&M then to capital. Any credit balances (available credits) and/or offset balances (available offsets) remaining at the conclusion of the reconciliation process will be carried forward for application to future WRR obligations. There will be no refund on the basis of available credits or offsets. Offsets are accounting adjustments provided for under the Act. Credits are accounting adjustments consistent with historical cost recovery practices. Available offsets and credits do not represent an overpayment. An overpayment occurs only in those instances where collections exceed the amount required by statute, contract, or policy.

b. Specific reconciliation procedures are as follows:

Step 1: Determine the credit balance on an activity-by-activity basis for all Habitat Restoration, Improvement, and Acquisition activities ("67%" activities). Where Restoration Funds were expended for reimbursable activities, that obligation is considered paid and there is no further cost recovery. Where Restoration Funds were expended for a nonreimbursable activity, the expenditure amount is applied as a credit against any reimbursable WRR repayment obligation. A negative difference resulting from this calculation is the remaining credit balance. A positive difference represents the remaining WRR repayment obligation.

Step 2: Determine the net credit balance for all Habitat Restoration, Improvement, and Acquisition activities. This is simply the sum total of positive and negative balances for each Habitat Restoration, Improvement, and Acquisition activities. A net negative difference represents credits available for application to either (a) the net remaining WRR obligation for Projects and Facilities as described in Step 5 below or (b) future WRR program obligations. A net positive difference represents the remaining WRR obligation to be allocated and recovered through the annual water rate process.

Step 3: Determine the offset balance activity by activity for each Project and Facility ("33%" activities) as appropriate. Where Restoration Funds were expended for a reimbursable Project or Facility, that obligation is considered paid and there is no further cost recovery for the Project or Facility. Where Restoration Funds were expended for the nonreimbursable portion of a Project or Facility, the expenditure amount is applied as an offset against any reimbursable WRR obligation for that specific Project or Facility. A negative difference resulting from this calculation is the remaining offset balance for that specific Project or Facility. A positive difference represents the remaining WRR repayment obligation for that specific Project or Facility.

Step 4: Determine the net offset balance for all Projects and Facilities. This involves (a) calculating the total of all positive and negative balances for each Project and Facility, then (b) applying net offsets to that total. A net negative difference represents the offset balance (available offsets) available for application to future WRR obligations for Projects and Facilities. Available offsets may not be applied "above the line" to Habitat Restoration, Improvement, and Acquisition activities.

Step 5: Apply any net available credits from Step 2 to any positive balance (net WRR repayment obligation) for Projects and Facilities. A net negative difference resulting from this calculation represents the credit balance (available credits) available for application to future year WRR repayment obligations. Basically, a negative difference is factored into next year's Step 1. A total positive difference is the remaining WRR repayment obligation.

Step 6: Any Habitat Restoration, Improvement, or Acquisition AND/OR Project and Facility recovered through the annual water rates will be identified as "CVPIA Program Costs" within the Water Marketing or Other components of the rates depending on whether the costs are annual expense or capital, respectively.

Step 7. For commercial power, any WRR obligations remaining after application of all available offsets and credits will be recovered through power rates established by Western Area Power Administration.

13. Adjustments. Contractors are engaged with Reclamation and FWS in revalidating the specific program authority for certain Program activities undertaken during the period 1992-2002. Reclamation will adjust CVPIA program balances retroactively, as appropriate, to reflect any changes resulting from this process.

Supporting processes. Region budget and financial management processes include certain additional checks and balances to promote consistency in CVPIA program accounting. Specifically:

1. Budget process. Regional call letters for outyear appropriations budgets and the annual operating budget will include specific instructions for budgeting Program activities. At a minimum, instructions will require that activity plans identify (a) the activity as a Program activity and (b) whether costs associated with the activity are subject to reimbursement.

2. Program development process. Prior to presentation of annual Program work plans, USBR Special Projects Office (MP-120) and FWS project managers will consult with MP-3400 and MP-3600 on selected programs and projects for a preliminary determination of whether costs associated with each individual work activity are (a) subject to reimbursement and (b) appropriately capitalized or expensed.

3. Classification of costs. All funded activities, including Program activities, are classified for accounting purposes, usually as new cost authorities are established. The accounting classification has no impact on the reimbursability or nonreimbursability of the activity. Rather, the accounting classification determines the manner in which reimbursable costs are recovered. There are only two classification types:

a. Construction. Costs associated with construction activities, including accrued interest, are capitalized and recovered over the authorized project repayment period. In general, activities are classified as construction where the activity results in a completed facility, or additions and replacements to facilities, to which Reclamation holds title. Examples include (1) investigations conducted after a project is authorized by Congress, (2) design effort, and (3) actual construction. Costs associated with these activities are normally carried in the construction-in-progress account until the facility is completed and enters into service (plant-in-service). At that point, accumulated costs are capitalized and reimbursable costs included in the repayment balance.

b. O&M. Costs associated with O&M activities are treated as an annual expense ("expensed") for the year in which they are incurred. Activities are classified as O&M where the activity is other than construction and is for day-to-day operation, maintenance, and/or management of Reclamation facilities and lands. Examples include minor repair and cleaning, routine replacements, inspections, and day-to-day manual or electronic operation of project facilities. In addition to O&M activities, costs associated with certain other activities may also be expensed. Examples include (1) investigation activities prior to project authorization and (2) construction activities where the Federal Government does not hold title to the completed facility.

Enclosure

Glossary

For purposes of the Guidelines, these terms have the following meanings:

Activity. A separable or unique task, or group of related tasks, identifiable to a project or program.

Activity (Program activity). An activity that is region-wide in scope but does not fall under the purview of Policy and Administration; an activity on a project that does not have project-specific funding (i.e., the water conservation on the Santa Maria Project); or an activity that, as a matter of policy, is included in a Bureau-wide program (i.e., administration of the Reclamation Reform Act under the Reclamation Law Administration Program).

Allocation. The assignment of costs among authorized project purposes to determine repayment responsibilities. The project purposes may be either reimbursable or nonreimbursable.

Consistency. Consistency with applicable laws, regulations, policies, contracts, agreements, and past practices.

Construction costs. In general, construction costs consist of all costs, including labor, construction equipment, land and land rights, investigations, engineering, and related services that contribute to the original value of the physical works constructed.

Cost share. Requirement imposed by law, policy, regulation, contract or agreement that obligates benefitting parties—normally Federal and non-Federal parties—to split the costs of a project, program, or facility.

Fish and wildlife enhancement. Developing or improving wildlife resources beyond a condition or level that would have occurred without the project.

Fish and wildlife mitigation. Avoiding and/or lessening wildlife losses due to a project through the use of loss prevention measures and/or offsetting losses through the use of other structural and nonstructural measures.

Non-reimbursable costs. Costs associated with (1) a non-project specific activity as determined by law or policy or (2) a nonreimbursable project purpose (i.e., the Federal portion of recreation, flood control, navigation, and fish and wildlife enhancement), or (3) a reimbursable project purpose but subsequently authorized by law or policy as nonreimbursable.

O&M Costs. In general, O&M costs are costs incurred with activities that ensure the reliability and operational readiness of dams, power plants, water distribution systems, recreational facilities, and related structures.

Overpayment. Collection from a contractor in excess of the amount required by law, regulation, policy, or contract.

Payment. Cash receipt from a contractor pursuant to an obligation to the U.S. Treasury.

Project. Federal water resource project authorized by Reclamation law.

Project-specific activity. An activity is generally considered a project-specific activity if it is identified or aligned with, or attributed to the project, or a specific facility or feature of the project, either directly or indirectly by law, policy, or legal decision. The legal authority for the activity is normally addressed in the Budget Justifications. A project-specific activity may be either reimbursable or nonreimbursable. By definition, all Program activities are project activities.

Project operations. The full range of planning, operations, maintenance, and other activities required to successfully accomplish each authorized function of the project.

Power contractor. An entity that has an agreement with Western Area Power Administration for long-term firm power.

Reimbursable costs. Costs associated with those project purposes required by law to be repaid by project beneficiaries and therefore recovered through water and power rates (i.e., municipal and industrial water, power, and irrigation) or through repayment contracts with water users.

Repayment contract. Water contracts authorized under Sections 9(c)(1) and 9(d) of the Reclamation Project Act of 1939, which require water users to repay a fixed obligation over a set period of time in a manner similar to a home mortgage.

Restoration Fund (The). Fund established in the U.S. Treasury under authority of P.L. 102-575 for deposit of funds collected from CVP water and power contractors to carry out provisions of the Act.

Restoration Fund credit. Accounting adjustment to contractors' reimbursable WRR obligation for Habitat Restoration, Improvement, and Acquisition ("67%") activities. Contractors' reimbursable WRR obligation is credited (reduced) annually on a dollar-for-dollar basis where Restoration Funds were used to pay for the Federal nonreimbursable or State cost share of Program activities. Credits are applied first to 67% activities, then to net Projects and Facilities costs. In effect, credits are applied first to O&M then to capital.

Restoration Fund offset. Accounting adjustment to contractors' reimbursable WRR obligation for cost-share Projects and Facilities authorized Section 3406(b) by the Act ("33%" activities). Contractors' reimbursable WRR obligation is offset (reduced) on a dollar-for-dollar basis where Restoration Funds were used to pay for the Federal nonreimbursable or State share of 3406(b) cost-share Projects and Facilities.

Trust Fund. Account established by Reclamation for cash received for cost-share or other contributions from non-Federal entities.

Water service contract. Water contracts authorized under Sections 9c(2) and 9(e) of the Reclamation Project Act of 1939, that sell water on an acre-foot basis.

Water service contractor. An entity that has a contract with the Bureau of Reclamation for the delivery of Project water under terms of a water service contract.

BRC 03-01
September 29, 2003

Tasking Statement

Issue: CVPIA Program Accounting and Cost Recovery

Tasking. Develop alternatives for recovering accumulated and future costs of reimbursable CVPIA program activities and disposition of Restoration Fund revenues.

Deliverable. The primary deliverable will be a written report for review and consideration by the Regional Director. At a minimum, the report will include:

1. Definition of the issue.
2. Background information.
3. Alternatives. Each alternative will be supported by an analysis of the financial impacts, potential legislative or policy impacts, and other substantive issues.
4. Recommendation of preferred alternative.
5. Process and procedures for implementing the preferred alternative

Approach. The Reclamation Regional Business Manager has overall responsibility for delivering the end product to the Regional Director for consideration and decision. In that regard, Reclamation will develop the report based upon close and continuing collaboration with CVP water and power contractors. Collaboration will primarily occur through a team consisting of Reclamation staff and contractor representatives.

Method. Interest-based problem solving. Specific interests will be developed by the team once it convenes.

Process: Series of technical working meetings.

Schedule: The report will be completed according to the following general schedule:

Action	Completion Date
Initial Team Meeting - Review and finalize tasking statement and plan of action for completion.	Jan 15, 2002
Phase I: Program analysis - Validate scope of CVPIA program - Review individual CVPIA program elements including review of subaccounts and corresponding cost authorities.	Feb 20-21, 2002
Phase II: Review and validate accumulated CVPIA program costs - Consider funding sources and cost-share requirements including balance of accounts for State share.	Mar- Jul 2002
Phase III: Identify and evaluate options for recovering accumulated and future reimbursable CVPIA program costs - Consider disposition of revenues from all sources and identify variations—if any—in applying different types of revenues (e.g., Restoration Fund payments vs. Friant surcharges) - Review and apply offset provisions of CVPIA - Consider impact of cost allocation processes	Aug-Oct 2002
Phase IV: Develop implementation plan for preferred alternative(s)	Nov 2002
Phase V: Develop and Present Report to the Regional Director for consideration and decision	Dec 2002

Enclosure 1

DRAFT

September 26, 2003

Supplement 1 to Business Practices Guidelines for CVPIA Program Accounting and Cost Recovery

PART I: Standard Operating Procedures: Annual Reconciliation of CVPIA Program Costs

Step 1: Determine the credit balance on an activity by activity basis for all Habitat Restoration, Improvement and Acquisition activities (67% activities). Where Restoration Funds were expended for reimbursable activities, that obligation is considered paid and there is no further cost recovery. For example:

Activity	Reimb	Rest Funds	WRR	Total Costs	Total Credits
AFRP	Yes	$ 1,000,000	$ 0	$ 1,000,000	$ 0

Where Restoration Funds were expended for a non-reimbursable activity, the expenditure amount is applied as a credit against any reimbursable WRR repayment obligation. A negative difference resulting from this calculation is the remaining credit balance. A positive difference represents the remaining WRR repayment obligation. For example:

Activity	Reimb	Rest Funds	WRR	Total Costs	Total Credits
AFRP	Yes	$ 1,000,000	$ 0	$ 1,000,000	$ 0
Level 4 RWS	No	$ 300,000	$ 200,000	$ 500,000	($ 300,000)
(b)(1) Other	Yes	$ 200,000	$ 400,000	$ 600,000	$ 400,000

Step 2: Determine the net credit balance for all Habitat Restoration, Improvement and Acquisition activities. This is simply the sum total of positive and negative balances for each Habitat Restoration, Improvement and Acquisition activities. A net negative difference represents credits available for application to either (a) the net remaining WRR obligation for Projects and Facilities as described in Step 5 below; or (b) future WRR program obligations. For example:

Activity	Reimb	Rest Funds	WRR	Total Costs	Total Credits

AFRP	Yes	$ 1,000,000	$ 0	$ 1,000,000	$ 0
(b)(1) Other	Yes	$ 200,000	$ 200,000	$ 400,000	$ 200,000
Level 4 RWS	No	$ 300,000	$ 200,000	$ 500,000	($ 300,000)
Total	--				($ 100,000)

A net positive difference represents the remaining WRR obligation to be allocated and recovered through the annual water rate process. For example:

Activity	Reimb	Rest Funds	WRR	Total Costs	Total Credits
(b)(1) AFRP	Yes	$ 1,000,000	$ 0	$ 1,000,000	$ 0
(b)(1) Other	Yes	$ 200,000	$ 200,000	$ 400,000	$ 200,000
(b)(3) Level 4	No	$ 300,000	$ 200,000	$ 500,000	($ 300,000)
(d)(5) RW Conv	Yes	$ 100,000	$ 400,000	$ 500,000	$ 300,000
Total	--				$ 200,000

In the event (and only in the event) of a positive difference, Reclamation will:

a. Suballocate costs to M&I, irrigation and commercial power on an activity by activity basis. Suballocation percentages will be based upon the specific factors applicable to each activity. For example:

Activity	Credits	WRR Balance To be recovered	Irrigation	M&I	Power
(b)(1) AFRP	$ 0	$ 0	$ 0	$ 0	$ 0
(b)(1) Other	$ 0	$ 200,000	$ 100,000	$ 50,000	$ 50,000
(b)(3) Level 4	$ 300,000	$ 0	$ 0	$ 0	$ 0
(d)(5) RW Conv	$ 0	$ 300,000	$ 150,000	$ 75,000	$ 75,000

b. Develop net suballocation totals and net credits for all activities where applicable. Basically, this involves summing up all individual activity allocations.

Activity	Credits	WRR Balance To be recovered	Irrigation	M&I	Power
(b)(1) AFRP	$ 0	$ 0	$ 0	$ 0	$ 0
(b)(1) Other	$ 0	$ 200,000	$ 100,000	$ 50,000	$ 50,000
(b)(3) Level 4	$ 300,000	$ 0	$ 0	$ 0	$ 0
(d)(5) RW Conv	$ 0	$ 300,000	$ 150,000	$ 75,000	$ 75,000

Total	$ 300,000	$ 500,000	$ 250,000	$ 125,000	$ 125,000

d. Identify net costs subject to recovery. This involves applying net credits to the total of all costs subject to recovery for M&I, irrigation and commercial power.

Activity	Net Credits	Costs STR	Net Costs STR
(b)(1) AFRP	$ 0	$ 0	
(b)(1) Other	$ 0	$ 200,000	
(b)(3) Level 4	$ 300,000	$ 0	
(d)(5) RW Conv	$ 0	$ 300,000	
Total	$ 300,000	$ 500,000	$ 200,000

e. Prorate the net costs subject to reimbursability back to M&I, irrigation and commercial power using weighted suballocation factors. For example:

Net Costs STR	Irrigation	M&I	Power
$ 200,000	$ 120,000	$ 40,000	$ 40,000

f. Include costs in the water and power rates for the appropriate year, same as any other cost.

Step 3: Determine the offset balance activity by activity for each Project and Facility (33% activities) as appropriate. The mechanics of calculating the offset balance for each Project or Facility are the same as Step 1 above:

a. Where Restoration Funds were expended for a reimbursable Project or Facility, that obligation is considered paid and there is no further cost recovery.

b. Where Restoration Funds were expended for the non-reimbursable portion of a Project or Facility, the expenditure amount is applied as an offset against any reimbursable WRR obligation for that specific Project or Facility. A negative difference resulting from this calculation is the remaining offset balance. A positive difference represents the remaining WRR repayment obligation.

Step 4: Determine the net offset balance for all Projects and Facilities. The mechanics of calculating the offset balance for each Project or Facility are the same as Step 2 above. Specifically, calculate the sum total of all positive and negative balances for each Project and Facility. A net negative difference represents the offset balance (available offsets) available for application exclusively to future WRR obligations for Projects and Facilities. Available offsets may not be applied "above the line" to Habitat Restoration, Improvement and Acquisition activities.

Step 5: Apply any negative credit balance (net available credits) from Step 2 to any positive balance (net WRR repayment obligation) for Projects and Facilities.

a. A negative difference resulting from this calculation is carried forward and is available for application to outyear WRR obligations. Basically, a negative difference is considered in next year's Step 1.

b. A positive balance resulting from this calculation represents the remaining WRR repayment obligation for Projects and Facilities. In the event of a positive balance, Reclamation will follow the same procedures for allocating and recovering these costs as described in Step 2. There are only two differences:

(1) Calculations are confined to Projects and Facilities and do not involve costs for Habitat Restoration, Improvement and Acquisition activities.

(2) Consistent with prevailing accounting standards, Reclamation Law, Reclamation Policies and Directives and historic practices, interest will be calculated on M&I and commercial obligations using a weighted rate. The weighted interest rate is based upon the annual CVP interest rate (P.L. 99-546) and applied against the annual repayment obligations for Projects and Facilities.

Step 6: Any Habitat Restoration, Improvement or Acquisition AND/OR any Project and Facility recovered through the annual water rates will be identified as "CVPIA Program Costs" within the Water Marketing or Other components of the rates depending on whether the costs are annual expense or capital respectively.

Step 7. For commercial power, any WRR obligations remaining after application of all available offsets and credits will be recovered through power rates established by Western.

PART II: Statutory Basis for Key Interpretations of the Act

Component	Basis
Nature of Restoration Fund Payments	The determination to credit Restoration Fund revenues as payments is supported by several separate provisions of the Act. The primary citation is Section 3407(c): Mitigation and Restoration Payments by Water and Power Beneficiaries subsection 3407(c)(1) which states: " . . . the Secretary shall assess and collect additional annual mitigation and restoration payments, in addition to charges provided for or collected under [various other provisions] of this title, consisting of charges to direct beneficiaries of the Central Valley Project under subsection (d) of this section *in order to recover a portion or all costs of fish, wildlife, and habitat*

	restoration programs and projects under this title." [Italics added] Section 3407(c)(1) contains several key terms that reinforce that Restoration Fund revenues should be applied toward reimbursable Program obligations. In particular: "mitigation and restoration payments". Mitigation is a reimbursable activity. From a practical standpoint, the term "restoration" is generally used interchangeably with the term "mitigation". There is no provision under Reclamation Law to require payment for costs associated with non-reimbursable activities. "in order to recover" clearly conveys that the purpose of Restoration Fund revenues (whether payments or charges) is to recover the costs of reimbursable Program activities. According to Reclamation Law and current policies and accounting standards, Reclamation does not recover costs unless they are determined to be reimbursable or otherwise "owed" to the United States. "fish, wildlife, and habitat restoration". The term restoration refers back to mitigation. "under this title" means all provisions of the Act.
Restoration Fund Offsets	Guidelines are consistent with Section 3407(b), which states: "Any funds paid into the Restoration Fund by Central Valley Project water and power contractors and which are also used to pay for projects and facilities set forth in Section 3406(b), shall act as an offset against any water and power contractor cost share obligations that are otherwise provided for in this title." Section 3407(b) contains several key terms that allow offsets to be interpreted in this manner: "Also used" means used by the United States. "Projects and facilities" is interpreted to mean cost share projects and facilities as distinguished from "Habitat Restoration, Improvement and Acquisition activities". "Any cost share obligations" is interpreted to mean both

	Restoration Fund and WRR portions of contractors' cumulative cost share obligation. Restoration Fund revenues applied to contractors' share of cost share facilities are already credited as a payment. The only remaining Restoration Funds still available for offset are those used by Reclamation to fund the federal share of the project or facility. The Guidelines are likewise consistent with Section 3406(b)(23)(B) which states that: " . . . the costs of implementing those measures which are determined to provide such enhancement shall become credits to offset reimbursable costs associated with implementation of this subsection." The proposal simply interprets this to mean that fish and wildlife enhancement activities are non-reimbursable.
Restoration Fund Credits	The Guidelines are consistent with Section 3407(c)(1) which characterizes Restoration Fund revenues as payments against reimbursable obligations. The Guidelines are also consistent with the offset provisions of the Act, which convey that contractors should be made whole in cases where Restoration Fund revenues are used to fund non-reimbursable Program activities.
Trust Fund Adjustment	The Trust Fund adjustment is provided for by the SCAMPI. The adjustment is necessary in order to make the United States whole. Reclamation has no authority to recover contributed funds from water and power contractors.